HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

W.P.NO. 22434 OF 2001

DATED: 5.2.2007

Between:

Shaik Chand

... Petitioner

and

M. Wahajuddin Hussain @ Mohisin and another

...

Respondents

HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

W.P.NO.22434 OF 2001

ORDER: (PER BPR.J)

The petitioner is the unsuccessful applicant, who seeks a writ of Certiorari, assailing the orders in LGC No.7 of 1998 dated 20.11.2000, on the file of the Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982 (for short 'the Act'), rejecting an application filed under Section 8 (1) of the Act, wherein the petitioner sought a declaration that he is the owner and also to direct delivery of vacant possession to him from the contesting respondent herein.

The petitioner claimed the absolute rights in Plot No.32 admeasuring 306 sq.yards in Sy.No.157/5, as per the layout issued on 25.8.1981 in favour of Sri Balaji Cooperative Housing Society Limited (for short 'the Society'), in which he was a member and after the same was allotted to him by a resolution dated 6.8.1984, he paid the entire consideration to the society. Later on,

on authorization by the Society, the President and Treasurer executed a registered sale deed in favour of the applicant on 24.9.1985 and possession was delivered to the petitioner. However, no constructions could be made on the schedule property due to financial constraints. It is further alleged that the respondent has grabbed the property of the petitioner. Hence, this application.

Contesting the case, the case of the respondent is that of total denial and further it is also claimed that the entire claim of the petitioner is fictitious and no possession was ever delivered to the petitioner by the society in his favour. It was claimed that the respondent has purchased the property from the society by executing a registered sale deed on 24.9.1985 for valid consideration and since then he was in possession. It was further alleged that the purchase made by the vendor of the applicant is much subsequent to the sale effected in favour of the predecessor-in-title of the respondent and therefore no valid title has been passed in favour of the petitioner and hence the application is liable to be dismissed.

With these allegations and counter claims, the

Special court framed the necessary issues for trial. On behalf of the petitioner, PWs.1 and 2 were examined and Exs.A-1 to A-7 were marked. On behalf of the respondent, RWs. 1 to 3 were examined and Exs.B-1 to B-5 were marked. That apart, a copy of the judgment of this court in W.P.Nos.5179 and 5180 of 1996 was also marked.

On a consideration of the entire material and evidence available on record, the Special Court had dismissed the application. Hence, the writ petition.

Heard the counsel on either side and perused the record. The entire issue revolves around the dispute as to title and possession of the applicant with regard to the suit property. Both sides have produced their respective evidence in respect of their respective claims. Having regard to the Ex.C-1 judgment, wherein this court has cancelled the very resolution dated 6.8.1984 on the ground that it is ***void abinitio,*** for want of the required quoram of the members of the Managing Committee for passing the said resolution, as such there is no valid authorization to the effect of allotment and sale executed in favour of the petitioner or his predecessor-in-title. The said judgment of this court

has also been confirmed in the Supreme Court and it has become final. Having regard to the same, it cannot be said that the applicant has established his valid title and the very application filed by him is not maintainable. We do not find any perversity in the order under challenge.

There are no merits in the writ petition and the same is accordingly dismissed. No order as to costs.

B. PRAKASH RAO, J

M. VENKATESWARA REDDY

DATE: 5.2.2007

CVM